

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MUSHTAQ AHMAD,

Plaintiff,

v.

NEW YORK CITY DEPARTMENT OF
EDUCATION, *et al.*,

Defendants.
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DECISION & ORDER
18-CV-3494 (WFK)

WILLIAM F. KUNTZ, II, United States District Judge:

In a letter dated February 14, 2022 and filed on February 16, 2022, Plaintiff moved for sanctions against Defendant New York City Department of Education (“DOE”) and its counsel. *See* ECF No. 95. On February 18, 2022, Defendant DOE filed a response in opposition. *See* ECF No. 96.

Rule 11 of the Federal Rules of Civil Procedure permits a court to impose sanctions when a pleading, motion, or other paper (1) is “presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation”; (2) raises claims not warranted by existing law or by a nonfrivolous argument for changing existing law or establishing new law; (3) presents factual contentions without evidentiary support or are unlikely to have any evidentiary support following “reasonable opportunity for further investigation or discovery”; or (4) asserts denials of factual contentions not warranted by the evidence nor “reasonably based on belief or a lack of information.” Fed. R. Civ. P. 11(b).

Decisions to impose sanctions must be made with “restraint and discretion.” *Schlaifer Nance & Co. v. Estate of Warhol*, 194 F.3d 323, 334 (2d Cir. 1999). Further, “[e]ven if the district court concludes that the assertion of a given claim violates Rule 11 . . . the decision

whether or not to impose sanctions is a matter for the court's discretion." *Perez v. Posse Comitatus*, 373 F.3d 321, 325 (2d Cir. 2004).

Plaintiff asserts Defendant DOE and its counsel filed a false certificate of service with the Court on January 19, 2022 and January 26, 2022. *See* ECF Nos. 95, 96. In the prudent exercise of the Court's discretion, the Court declines to order sanctions on this evidentiary record, and therefore DENIES Plaintiff's motion in its entirety. ECF No. 95. The Clerk of Court is respectfully directed to mail a copy of this Decision & Order to the Plaintiff.

SO ORDERED.


s/ WFK


HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: February 28, 2022
Brooklyn, New York